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THE HON. FREDERICK P. CORBIT

11 UNITED STATES BANKRUPTCY COURT  
12 EASTERN DISTRICT OF WASHINGTON

13 COLLEEN K. JONES

14 Debtor.

15 COLLEEN K. JONES

16 Plaintiff,

17 v.

18 NAVIENT SOLUTIONS, LLC,  
19 VL FUNDING, LLC, NAVIENT PC TRUST

20 Defendant(s).  
21

CHAPTER 13

CASE NO: 20-00771-FPC13

ADV NO: \_\_\_\_\_

**VERIFIED COMPLAINT TO  
DETERMINE DISCHARGEABILITY  
OF STUDENT LOANS**

22 COMES NOW, Plaintiff, Colleen K. Jones, by and through her attorney of record,  
23 David A. Kazemba of Overcast Law Offices, and allege as follows:

24 **I. JURISDICTION AND VENUE**

25 1.1. **Jurisdiction.** This adversary proceeding is brought pursuant to Rules 4001 and  
26 7001 of the Federal Rules of Bankruptcy Procedure and 11 U.S.C. § 523(a)(8)(A).  
27

VERIFIED COMPLAINT TO DETERMINE  
DISCHARGEABILITY OF STUDENT LOANS- 1

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1.2. This court has subject matter jurisdiction over this adversary proceeding to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

1.3. **Venue.** Venue is proper in this district pursuant to 28 U.S.C. § 1409.

## II. PARTIES

2.1. **Plaintiff, Colleen K. Jones** (“Plaintiff”) is an individual residing in the State of Washington and debtor in the above captioned Chapter 13 proceeding.

2.2. **Defendant Navient Solutions, LLC (“Navient”)** is a Virginia Limited Liability Company that either facilitated or currently is the holder of Plaintiff’s student loan debt.

2.3. **VL Funding, LLC** is a Delaware Limited Liability Company that either facilitated or currently is the holder of Plaintiff's student loan debt

2.4. **Navient PC TRUST** is a securitization trust sponsored by Navient Corporation that either facilitated or currently is the holder of Plaintiff's student loan debt.

**2.5. All defendants collectively are hereafter referred to as “Defendants.”**

### III. STATEMENT OF THE CASE

3.1. Plaintiff incorporates and realleges all foregoing paragraphs as if fully set forth herein.

3.2. The Debtor's financial obligations to the Defendants are believed to be educational benefit overpayments or loans made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or an obligation to repay funds received as an educational benefit, scholarship, or stipend, as described in 11 U.S.C. § 523(a)(8).

3.3. Debtor, Colleen K. Jones applied for and incurred student loan obligations with the Defendants in order to pay her tuition at Washington State University from 2002 to 2006.

3.4. Plaintiff obtained a bachelor's degree in Social Sciences and initially pursued employment as a writer.

1           3.5. Despite obtaining her degree, Plaintiff was not able to find employment  
2 consistent with her degree.

3           3.6. Plaintiff was hired in August of 2018 as a project manager for an independent  
4 publisher but was terminated from her employment in September 2019, due to restructuring.  
5 She currently does some freelancing for this company, but a full-time job or permanent position  
6 is not available.

7           3.7. After some time doing freelancing and occasionally substituting for the Ephrata  
8 School District, Plaintiff obtained a full-time position with Walmart.

9           3.8. While at work around January 2021, Plaintiff injured her leg. Plaintiff was  
10 moved to a cashier's position however, standing for long lengths of time aggravated the injury.  
11 Plaintiff requested accommodations and they moved Plaintiff to a position in a different  
12 department where less standing would be required, however she could not work a full eight-  
13 hour shift without being in immense pain.

14           3.9. Plaintiff's injury proved to be persistent, and she continued to have problems  
15 with pain more than a year after the date of the injury. Due to this, Plaintiff's employer cut her  
16 hours. In the months of January, February, March and April 2022, Plaintiff worked so little that  
17 her income was barely sufficient to pay for her basic needs.

18           3.10. Plaintiff's hours at Walmart continued to be cut, so Plaintiff realized it was  
19 necessary to get a new job position that could better accommodate her injury.

20           3.11. In April 2022, Plaintiff obtained a part-time position with the Department of  
21 Fish and Wildlife. However, because the position is part-time, Plaintiff is still making very  
22 little income.

23           3.12. As detailed in her filed Schedule I and J, Plaintiff cannot maintain a minimal  
24 standard of living.

25           3.13. Plaintiff made good faith efforts to repay her student loans until she had no  
26 means to pay after being laid off in September 2019 and after having her hours cut from  
27 Walmart January 2022 to April 2022.

1           3.14. In sum, due to Plaintiff's injury and her inability to work a full-time job,  
2 Plaintiff was never able to make full payments on her student loans. This situation has and will  
3 continue to persist for the repayment period. Further, it is not feasible for her to sustain  
4 sufficient income to repay her student loan obligations while maintaining a minimal standard of  
5 living for herself and her mother.

6           3.15. The principal purpose of the Bankruptcy Code providing a fresh start to the  
7 honest but unfortunate debtor, requires re-examination of the outdated *Brunner* test and  
8 dischargeability of student loans.

9           3.16. It is necessary for the determination of the Plaintiff's stated claims to engage in  
10 discovery to uncover the extent of Defendant's collection efforts which may have affected  
11 Plaintiff's efforts to make payment towards their student loans.

12           **IV. FIRST CAUSE OF ACTION – DISCHARGEABILITY OF DEBT UNDER 11**  
13                           **U.S.C. § 523(A)(8)A (UNDUE HARDSHIP)**

14           4.1. Plaintiff incorporates and realleges all foregoing paragraphs as if fully set forth  
15 herein.

16           4.2. Plaintiff cannot, based on her current income and expenses, maintain a  
17 “minimal” standard of living for herself and her dependent if forced to repay her education  
18 loans to Defendants.

19           4.3. Moreover, this situation is likely to persist for a significant portion of the  
20 repayment period of the educational loans.

21           4.4. Plaintiff has exhibited good faith efforts to repay her loans.

22           4.5. Therefore, the Debtor's educational loans are properly dischargeable under the  
23 Bankruptcy Code.

24           **V. SECOND CAUSE OF ACTION – DECLARATORY JUDGMENT AND**  
25                           **DETERMINATION OF DISCHARGEABILITY**

26           5.1. Plaintiff incorporates and realleges all foregoing paragraphs as if fully set forth  
27 herein.



1           5.2. Based on the foregoing cause of action, Plaintiff requests a declaratory judgment  
2 pursuant to 28 U.S.C. § 2201 and Federal Rules of Bankruptcy Procedure 4007(a) and 7001(9)  
3 that all Plaintiff's student loans are to be included in the general discharge to be obtained after  
4 all payments have been made on their Chapter 13 plan.

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6                   **VI. RESERVATION OF RIGHT TO AMEND COMPLAINT**

7           6.1 Plaintiff reserves the right to amend plaintiff's complaint herein based on the  
8 discovery of additional facts and evidence obtained through further investigation and discovery,  
9 including but not limited to a claim under the Washington State Consumer Protection Act,  
10 RCW 19.86, and to include the right to add additional parties.

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12                   **VII. REQUEST FOR RELIEF**

13           WHEREFORE, Plaintiff, Colleen K. Jones, prays for the following relief:

14           7.1. That her educational loans with Defendants be completely dischargeable under  
15 11 U.S.C. § 523(a)(8)(A); or

16           7.2. In the alternative, that her educational loans with Defendants are partially  
17 dischargeable under 11 U.S.C. § 523(a)(8)(A);

18           7.3. That this Court provide declaratory relief and a determination that all student  
19 loans are dischargeable; and

20           7.4. For such other and further relief as the court deems just and equitable.

21           DATED: September 27<sup>th</sup>, 2022.

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23                                   OVERCAST LAW OFFICES


24                                   By:   
25                                   David A. Kazemba, WSBA # 48049  
26                                   Attorney for Plaintiff  
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VERIFIED COMPLAINT TO DETERMINE  
DISCHARGEABILITY OF STUDENT LOANS- 5

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3 VERIFICATION  
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5 Plaintiff, Colleen K. Jones declares on this 15<sup>th</sup> day of September, 2022, at  
6 Ephrata, Washington, under penalty of perjury under the laws of Washington that she  
7 is the Plaintiff named in this Verified Complaint, has read the Verified Complaint, and knows  
8 its contents and that the statements made in this Verified Complaint are true and correct to the  
9 best of her knowledge.

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11 Colleen K. Jones  
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